

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

STACIA CROMARTIE,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:16-CV-97-WKW
)	(WO)
ALABAMA STATE)	
UNIVERSITY, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

Before the court is Plaintiff's motion to vacate (Doc. # 46), which is construed as a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Rule 60(b) provides as follows:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding . . . mistake, inadvertence, surprise, or excusable neglect; . . . or . . . any other reason that justifies relief.

Fed. R. Civ. P. 60(b)(1), (6).

On December 7, 2016, the Magistrate Judge entered a Recommendation that this case be dismissed pursuant to Rule 41(b) of the Federal Rules of Civil Procedure. (Doc. # 33.) No objections were filed. On March 2, 2017, the Recommendation was adopted and the case was dismissed. (Doc. # 44: Doc. # 45.)

Plaintiff argues that she filed her amended complaint “one day late” on January 10, 2017, and that the late filing does not justify dismissal because the filing was delayed due to Plaintiff’s medical treatment on January 9, 2017. However, the amended complaint was due on November 21, 2016. (Doc. # 30.) Plaintiff was not granted an extension of time past November 21, 2016 to file the amended complaint. Thus, proposed amended complaint was filed 50 days late.

Further, the court did not construe Plaintiff’s January 10, 2017 motion for leave to amend (Doc. # 41) as a belated objection to the Recommendation because, in the motion, Plaintiff failed to address the Magistrate Judge’s findings that Plaintiff’s failure to timely file an amended complaint in accordance with court orders was willful and that lesser sanctions would not suffice. (*See* Doc. # 33 at 5 (advising Plaintiff that “[a]ny objections filed must specifically identify the findings in the [Recommendation] to which an objection is being asserted”).) Plaintiff’s medical treatment in January 2017 postdates the Recommendation and is not relevant to the Magistrate Judge’s December 7, 2016 finding that the delay in filing the amended complaint was inexcusable. Therefore, Plaintiff has not demonstrated that she is entitled to relief on the basis of excusable neglect or any other reason justifying relief.

Accordingly, it is ORDERED that the motion for relief from judgment (Doc. # 46) is DENIED.

Further, it is ORDERED that Exhibits H and I to the motion (Doc. # 46-9; Doc. # 46-10) be SEALED on grounds that they contain Plaintiff's medical information. The Clerk of the Court is DIRECTED to seal Exhibits H and I to the motion. (Doc. # 46-9; Doc. # 46-10.)

DONE this 2nd day of June, 2017.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE